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EXAMINER	
DAGOSTA, STEPHEN M	
ART UNIT	**PAPER NUMBER**
2683	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/761,376	BEUCK, DAVID P.	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7, 11-12, 14-16, 20-23 and 25-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski et al. US 2003/0054834 and further in view of Agre et al. US 6.073,013 and Richton US 6,650,902.

As per **claims 1, 12, 14 and 20,** Gutowski teaches a method of reporting a location (title, abstract), comprising:

determining whether a location finding device is within a first distance of a first location (abstract teaches if the mobile is located within a "checkpoint" area, figure 1), and determining if the location finding device is not within the first distance of the first location (inherent since Gutowski knows if the mobile is within the checkpoint area, so the mobile is not within the first distance when not in the checkpoint area),

but is silent on

determining whether a wireless access point is available, and transmitting information indicative of a location of the location finding device to a server via the wireless access point, when the wireless access point is determined to be available.

Agre teaches position-based call processing (title) whereby the "system parses telephone numbers received from the subscriber unit based upon the parsing scheme of the locality in which the subscriber unit is located at the time the telephone call is placed" (abstract, figure 1). Agre is focused on providing a new BTS/wireless access point to the mobile to support it's call (see figure 3a, C3, L30 to C4, L63). While Agre

teaches the "system" determining the mobile unit's location, **Richton** teaches either the mobile of the system can determine the mobile's location:

"...Note the wireless mobile unit 201 may contain the functionality needed to locate itself, and may send results to the location service controller 301 (through a controlling base station and WSC 220); such as through GPS or modified GPS circuitry within the wireless mobile unit 201 itself. Alternatively, the location can be determined in a known manner through triangulation, etc., at the location action server 221 or WSC 220. Those familiar with wireless location technology/functioning will recognize that for the services disclosed herein, it does not matter whether location results are calculated in the network or in the wireless mobile unit 201 itself..." (C9, L37-50).

Hence, the combination of Gutowski, Agre and Richton teaches determining location of a mobile to ensure can find a BTS/Access point nearby it's current location depending on either the mobile or network determining said mobile's location.

With further regard to claim 12, Gutowski teaches a wireless transceiver configured to communicate with a wireless access device (figure 1), a global positioning system receiver configured to receive global positioning system satellite signals wherein the location finding device is configured to determine a current location of the location finding device using the received global positioning system satellite signals (para 0019) **but is silent on** report the current location to a server via the wireless transceiver when an absence of signals periodically transmitted from a device is detected by the location finding device. Gutowski teaches determining if the user is within a location/checkpoint (which can be interpreted as a certain BTS cell), so when the mobile leaves that cell, it's location is determined to thereby select a new service provider (as taught by Agre).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that determining whether a wireless access point is available, and transmitting information indicative of a location of the location finding device to a server via the wireless access point, when the wireless access point is determined to be available, to provide means for finding an alternative BTS/Access point that is proximate to the mobile's location.

As per **claims 2 and 15,** Gutowski teaches claim 1/14, **but is silent on** wherein the determining whether a wireless access point is available comprises:

determining whether a preferred provider access point is available, and when the preferred provider wireless access point is determined not to be available, determining whether any wireless access point is available.

Agre teaches a wireless gateway that connects the user to multiple service providers based on the location of the user (abstract, figure 1 and figure 3a, see steps 106 and 108).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that determining whether a preferred provider access point is available and when the preferred provider wireless access point is determined not to be available, determining whether any wireless access point is available, to provide means for selecting the best service provider in the area.

As per **claim 3,** Gutowski teaches claim 1, **but is silent on** wherein responsive to the server receiving the information, the method further comprises:

determining whether a preferred provider is located within a predetermined distance of the location finding device; and

when the preferred provider is determined to be located within the predetermined distance of the location finding device, conveying information associated with the location finding device to the preferred provider.

Agre teaches determining the location of the mobile (figure 3a, step 106), identifying which service providers are available based on position (step 108) and performing service provider negotiation (step 110) and then transferring the mobile to that service provider/channel (step 118, 120 and 124).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that determining whether a preferred provider is located within a predetermined distance of the location finding device and when the preferred provider is determined to be located within the predetermined distance of the location finding device, conveying information associated with the location finding device to the preferred provider, to provide means for selecting the best service provider in the area.

As per **claims 4, 22 and 25-26,** Gutowski teaches claim 3/21/20 **but is silent on** wherein the conveying information associated with the location finding device comprises contacting the preferred provider via one of a voice telephone call, a facsimile message, and an e-mail message.

Agre teaches (figure 3a, steps 106 and 108) determining which service providers are available to support the mobile (see C7, L24 to C8, L15). One skilled understands that this "determination step" either requires real-time negotiations and/or a previously predetermined negotiation. The most common negotiation means would be person-to-person and/or a phone call. Secondary means would be via email and/or fax. Furthermore, Agre teaches directing calls to the nearest emergency services center (abstract) which again requires previous negotiation. The examiner takes **Official Notice** that one skilled would perform contacting a preferred provider via in-person means and/or via email/fax.

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that contacting the preferred provider via one of a voice telephone call, a facsimile message, and an e-mail message, to provide means for setting up the new service provider link.

As per **claims 5 and 23,** Gutowski teaches claim 3/21, **but is silent on** wherein the conveying information associated with the location finding device comprises transmitting the information associated with the location finding device to a database of the preferred provider.

Agre teaches the gateway communicating with the service providers (figure 3a, steps 108/110 show determining which service provider will support the mobile and this inherently requires the service provider to update their HLR database with information about the mobile).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that transmitting the information associated with the location finding device to a database of the preferred provider, to provide means for updating the new service provider's HLR with the mobile's profile information.

As per **claim 6,** Gutowski teaches claim 1, further comprising:

determining the location of the location finding device based on received global positioning system satellite signals (para. 0019).

As per **claim 7,** Gutowski teaches claim 1, wherein the first distance is a distance at which the location finding device can receive a message from a device located at the first location (figure 1 shows the mobile located at a point 130 that is supported by the three BTS's. The mobile will be at a (first) distance whereby it can receive data from a BTS only when it is within range of the BTS, which reads on the claim).

As per **claims 11 and 16,** Gutowski teaches claim 1/14, wherein the determining whether the location finding device is within the first distance of the first location comprises:

collecting global positioning system satellite signals;

determining the location of the location finding device based on information included in the global positioning system satellite signals;

calculating a distance between the location of the location finding device and the first location; and

comparing the first distance to the calculated distance. (Para 0019 teaches various ways, ie. GPS, FLT, AFLT, AD-AOA, EOTD, in which the mobile unit's location can be determined. For GPS, this requires collecting GPS satellite signals, determining location based on said signals and calculating a distance to determine if within the checkpoint/"first distance" area).

As per **claim 21,** Gutowski teaches claim 20, **but is silent on** wherein the database is further configured to store information associated with a plurality of preferred providers, and the processing device is further configured to:

use the stored information associated with the plurality of preferred providers to determine whether a preferred provider is located within a predefined distance of a location of the locator device indicated by the received signal from the locator device, and

use the stored information associated with the plurality of preferred providers to convey information associated with one of the users who is associated with the locator device, when a preferred provider is determined to be within the predefined distance of the locator device .

Agre teaches using a service provider gateway (figure 4) which has a database of preferred service providers that are selected based on the mobile's location (figure 3a, steps 106, 108, 110).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that it uses stored information to determine preferred providers and convey said information, to provide means for automatically having the mobile connect to other service providers as it roams.

As per **claim 27,** Gutowski teaches claim 20, wherein the signal includes location information identifying a location of the locator device (para 0019).

As per **claim 28,** Gutowski teaches claim 27, **but is silent on** wherein the signal represents an emergency request message.

Agre teaches supporting 911 emergency calls (abstract).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that

Claims 8-10, 13, 17-19 and 24 rejected under 35 U.S.C. 103(a) as being unpatentable over Gutowski/Agre/Richton and Copley US 6,650,902.

As per **claim 8,** Gutowski teaches claim 7, **but is silent on** further comprising:

transmitting the message from the device at predetermined intervals; and

determining whether the location finding device is within the first distance comprises determining whether the message was received within a predefined time interval.

Copley teaches adjusting the rate at which the unit transmits location data messages:

"...In one form of the present invention, periodic status signals are received with a portable device from a wearable device worn by a person. The status signals indicate the operational status of the wearable device, and the operational status includes an indication of whether the person has tampered with the wearable device. The portable device determines periodically location of the portable device. Messages are transmitted periodically from the portable device to a monitoring system via a wireless telephone network. The messages include the location of the portable device and the operational status of the wearable device. Transmission rate of the messages from the portable device to the monitoring system is adjusted by reducing the transmission rate when the portable device is within a specified region and increasing the transmission rate when the portable device is outside the specified region..." (C1, L60 to C2, L35).

Hence one skilled will determine if the user is near the first distance based upon the message transmission interval.

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that transmitting the message from the device at predetermined intervals and determining whether the location finding device is within the first distance comprises determining whether the message was received within a predefined time interval, to provide means for understanding the user's location based on the message transmission interval.

As per **claim 9,** Gutowski teaches claim 8, wherein when the location finding device is determined to not be within the first distance and the wireless access point is determined to be available, the method further comprises:

determining the location of the location finding device based on received global positioning system satellite signals (para 0019).

As per **claim 10,** Gutowski teaches claim 1, **but is silent on** further comprising:

receiving a command for changing a rate at which information indicative of the location of the location finding device is reported to the server; and

changing the rate at which the information indicative of the location of the location finding device is reported to the server.

Copley teaches adjusting the rate at which the unit transmits location data messages:

"...Messages are transmitted periodically from the portable device to a monitoring system via a wireless telephone network. The messages include the location of the portable device and the operational status of the wearable device. Transmission rate of the messages from the portable device to the monitoring system is adjusted by reducing the transmission rate when the portable device is within a specified region and increasing the transmission rate when the portable device is outside the specified region..." (C1, L60 to C2, L35).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that receiving a command for changing a rate at which information indicative of the location of the location finding device is reported to the server and changing the rate, to provide means for the message interval to be changed at the discretion of the network operator.

As per **claim 13,** Gutowski teaches claim 8, **but is silent on** wherein the location finding device is configured to adjust a frequency of reporting the current information in response to receiving a command to adjust the frequency of reporting.

Copley teaches adjusting the rate at which the unit transmits location data messages:

"...Messages are transmitted periodically from the portable device to a monitoring system via a wireless telephone network. The messages include the location of the portable device and the operational status of the wearable device. Transmission rate of the messages from the portable device to the monitoring system is adjusted by reducing the transmission rate when the portable device is within a specified region and increasing the transmission rate when the portable device is outside the specified region..." (C1, L60 to C2, L35).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that it can adjust a frequency of reporting the current information in response to receiving a command to adjust the frequency of reporting, to provide means for the message interval to be changed at the discretion of the network operator.

As per **claims 17-19,** Gutowski teaches claim 14, **but is silent on** wherein the means for determining whether the location finding device is within the first distance comprises:

means for receiving a message transmitted from a device at predetermined intervals; and

means for determining whether the message was received within a predetermined time interval.

Copley teaches adjusting the rate at which the unit transmits location data messages:

"...Messages are transmitted periodically from the portable device to a monitoring system via a wireless telephone network. The messages include the location of the portable device and the operational status of the wearable device. Transmission rate of the messages from the portable device to the monitoring system is adjusted by reducing the transmission rate when the portable device is within a specified region and increasing the transmission rate when the portable device is outside the specified region..." (C1, L60 to C2, L35).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that it has means for receiving a message transmitted from a device at predetermined intervals and means for determining whether the message was

received within a predetermined time interval, to determine if the mobile is within the first distance area or not.

As per **claim 24,** Gutowskie teaches claim 20 **but is silent on**, comprising:

a network interface configured to connect the server to a network, wherein the server is configured to send a command to the locator device to change a rate of reporting of the locator device to the database server.

Copley teaches adjusting the rate at which the unit transmits location data messages:

"...Messages are transmitted periodically from the portable device to a monitoring system via a wireless telephone network. The messages include the location of the portable device and the operational status of the wearable device. Transmission rate of the messages from the portable device to the monitoring system is adjusted by reducing the transmission rate when the portable device is within a specified region and increasing the transmission rate when the portable device is outside the specified region..." (C1, L60 to C2, L35).

It would have been obvious to one skilled in the art at the time of the invention to modify Gutowski, such that it has a network interface configured to connect the server to a network, wherein the server is configured to send a command to the locator device to change a rate of reporting of the locator device to the database server, to provide means for the network operator to change the message reporting rate.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Kotzin US 2004/0203893
2. Casaccia et al US 2004/0192304
3. Deshpande et al US 2002/0176579
4. Brusilovsky et al. US 2004/0203732

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta
Primary Examiner